

## REMARKS

Claims 1 and 3-16, as amended, remain herein. Claim 2 has been canceled. Support for the amendments to the claims may be found, for example, in claim 2 as originally filed, and in Applicant's specification at p. 7, lines 1-16.

### **Objection to the Abstract**

The abstract has been amended so as not to exceed 150 words in length and to conform to proper abstract format. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection.

### **Rejections under 35 U.S.C. § 102(b)**

1. Claims 1-3, 6, 7, 9 and 10 were rejected under 35 U.S.C. § 102(b) over Livingstone U.S. Patent 2,743,844. However, since Livingstone fails to disclose every element of claims 1-3, 6, 7, 9 and 10, Applicant respectfully requests withdrawal of the rejection.

Livingstone fails to disclose a transport passage having an inner wall including a tapered portion tapering outwardly from a direction of the inlet end toward the outlet end, as recited in Applicant's amended claim 1. Rather, Livingstone discloses a channel 44 having a shape of a sliced cylinder, allowing dripping liquid to flow from a pouring end of the outlet passage 40 through a slot 42, and back into the pouring container. Alternatively, Livingstone discloses a substantially cylindrical outlet passage 40 having a baffle 46 at one end. Neither of these passages includes a tapered portion tapering outwardly from a direction of the inlet end toward the outlet end, as recited in Applicant's claim 1.

Livingstone further fails to disclose at least two sealing connector sections, located at or near the inlet and outlet ends respectively, for sealingly connecting the device with a filler vessel and an unfilled vessel. The Office Action cites threads located on the skirt 41 as “sealing connector sections.” However, while the lower threads connect to a bottle, the upper threads are not for connecting to an unfilled vessel. Rather, the upper threads are for receiving a cap, such as cap 33 in Fig. 3. See Livingstone, col. 4, lines 57-71. Livingstone fails to disclose creating a seal with an unfilled vessel. In fact, the channel (11, 44) and slot (4, 42) make such a seal impractical, since they are designed to allow air to freely enter the pouring bottle while allowing the free flow of liquid from the pouring bottle. See Livingstone, col. 4, lines 8-23.

Livingstone further fails to disclose that air within the unfilled vessel is displaced by powder from the filler vessel and passes through the transport passage during a filling operation, as recited in Applicant’s amended claim 1. Applicant’s specification at p. 7, lines 13-16 discloses that this transfer of air, facilitated by the seal between the unfilled vessel, the device, and the filling vessel, agitates the powder in the filling vessel and allows the powder to flow into the unfilled vessel. No such sealing structure or agitating function is recited in Livingstone.

Livingstone further fails to disclose a powder dispenser device for dispensing powder from a filler vessel to an unfilled vessel, as recited in Applicant’s amended claim 1. MPEP 2111.02 states that “the determination of whether preamble recitations are structural limitations can be resolved only on review of the entirety of the application.” The device recited in Applicant’s claim 1, and the embodiments recited in Applicant’s specification, are uniquely suited to transferring powder, rather than liquid, from one container to another. Applicant respectfully suggests that, based on the entirety of the application, reciting a powder dispenser device for dispensing powder from a filler vessel to an unfilled vessel in the preamble is a

structural limitation in the claims. Livingstone fails to disclose such a limitation. Rather, Livingstone discloses a device for pouring liquid from bottle. See Livingstone, col. 1, lines 15-25. Nor would the device of Livingstone be suitable for pouring powder, since the baffle 18, which aids in airflow and pouring of liquids, would hinder the flow of powder from a pouring vessel.

Regarding claim 7, Livingstone fails to disclose an exterior wall of the transport passage that is shaped to correspond to an inlet of any one of a plurality of unfilled vessels having access or inlet portions of differing diameters or shapes, the exterior wall thereby incorporating the sealable connector section. As discussed above, Livingstone fails to disclose an exterior wall having a sealable connection with an unfilled vessel. The Office Action cites the upper outer wall 41 and 44 as disclosing this limitation. Even assuming that the outer threaded portion of Livingstone could be connected to an unfilled vessel, the upper outer wall of the device has only one diameter, and could therefore connect with an unfilled vessel having one diameter or shape, not differing diameters or shapes, as recited in claim 7.

Since Livingstone fails to disclose every element of Applicant's claims 1 and 7, Livingstone is an improper basis for rejecting claims 1, 3, 6, 7, 9 and 10 under 35 U.S.C. § 102(b). Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

2. Claims 1 and 5 were rejected under 35 U.S.C. § 102(b) over Smith U.S. Patent 5,762,120. However, Smith fails to disclose every element of Applicant's claims 1 and 5.

Smith fails to disclose a transport passage having an inner wall including a tapered portion tapering outwardly from a direction of the inlet end toward the outlet end, as recited in Applicant's amended claim 1. Rather, the funnel of Smith tapers inward from an inlet portion 110 to an outlet portion 126. The Office Action cites aperture 126 as an inlet end and aperture

110 as an outlet end. However, since material inserted into the funnel of Smith is intended to flow from the wide end 110 to the narrow end 126, the wide end 110 is the inlet end (material flows into the funnel) and the narrow end 126 is the outlet end (material flows out of the funnel into the jar).

Smith further fails to disclose that a cross-sectional internal dimension at the inlet end of the transport passage is smaller than a cross-sectional internal dimension at the outlet end of the transport passage. As discussed above, rim 110 of Smith is an inlet end for receiving material into the funnel and opening 126 is an outlet end for passing material out of the funnel. Rim 110 is larger in cross-section than opening 126.

Smith further fails to disclose at least two sealing connector sections, located at or near the inlet and outlet ends respectively, for sealingly connecting the device with a filler vessel and an unfilled vessel. Although the Office Action asserts that threads 160 are a sealing connector at one end of the funnel, the Office Action fails to cite any sealing connector at the opposite end of the funnel. Nor is any such sealing connector disclosed in Smith. Smith fails to disclose forming any seal between a filler vessel, a dispenser device, and an unfilled vessel.

Smith further fails to disclose that air within an unfilled vessel is displaced by powder from a filler vessel and passes through the transport passage during a filling operation, as recited in Applicant's amended claim 1. In fact, Smith contains no disclosure of the air in an unfilled vessel with respect to a dispenser device.

Since Smith fails to disclose every element of Applicant's claims 1 and 5, Smith is an improper basis for rejecting claims 1 and 5 under 35 U.S.C. § 102(b). Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

**Rejections under 35 U.S.C. § 103(a)**

Claim 4 was rejected under 35 U.S.C. § 103(a) over Smith. The Examiner asserted that “the transport passage including rounded shoulders at its inlet end is a design choice.” Applicant respectfully disagrees. In a funnel such as that disclosed in Smith, the rim 110 can have a non-rounded edge, because material is not intended to be inserted into the funnel from the edge, rather from a center portion of the funnel. However, when dispensing powder in a sealed transport passage, rounded shoulders aid in the movement of powder and air by preventing compacting and clogging of the powder. Smith discloses no such shoulder, because the funnel of Smith is not designed to form a seal between two containers to transfer a powder from one container to the other. Having rounded shoulders in the transport passage, as recited in Applicant’s claim 4, provides a useful benefit to the powder dispensing device, and would not be merely “design choice.” Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

CONCLUSION

Applicant asks that all claims be allowed. Please apply any charges or credits to deposit account 19-4293.

Respectfully submitted,

Date: January 13, 2008

By:



Harold H. Fox  
Reg. No. 41,498

**Customer No. 27890**

Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Phone: 202-429-3000  
Fax: 202-429-3902